

**In the United States District Court  
For the Southern District of Georgia  
Waycross Division**

JOSEPH ROBERTS,

Plaintiff,

v.

FRANCISCO J. SAUCEDO,

Defendant.

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CIVIL ACTION NO.: 5:16-cv-41

**ORDER**

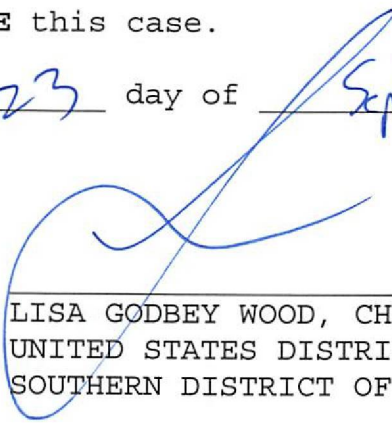
Presently before the Court are Plaintiff Joseph Roberts' ("Roberts") Objections to the Magistrate Judge's Report and Recommendation dated August 23, 2016. Dkt. No. 18. In his Objections, Roberts objects to the Magistrate Judge's Recommendation that this Court dismiss his Complaint for lack of subject matter jurisdiction. Id. at p. 1. Plaintiff appears to argue that Defendant waived this procedural restriction by failing to file a timely Answer to his Complaint.

However, the docket shows that Defendant was served with this Complaint on August 9, 2016 and timely served his answer on August 24, 2016. Dkt. No. 12; Dkt. No. 17. Furthermore, even if Defendant had failed to timely file his Answer, as Plaintiff alleges, a party may not waive subject matter jurisdiction by

failing to adhere to procedural rules. See Scarfo v. Ginsberg, 175 F.3d 957, 960 (11th Cir. 1999) ("Under the law of this circuit, . . . parties cannot waive subject matter jurisdiction, and [the Court] may consider subject matter jurisdiction claims at any time during litigation.)

Accordingly, the Court **OVERRULES** Roberts' Objections. After a *de novo* review, the Court **CONCURS** with and **ADOPTS** the Magistrate Judge's Report and Recommendation as the opinion of the Court. Consequently, Plaintiff's Complaint is **DISMISSED**. The Clerk of Court is **DIRECTED** to enter the appropriate judgment of dismissal and to **CLOSE** this case.

SO ORDERED, this 23 day of September, 2016.



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LISA GODBEY WOOD, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA